UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/696,964	10/30/2003	Neelam N. Vaidya	5681-54200	8464

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EXAMINER
WU, JUNCHUN

ART UNIT	PAPER NUMBER
2191	

MAIL DATE	DELIVERY MODE
05/15/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

	Application No.	Applicant(s)
Office Action Summary	10/696,964	VAIDYA, NEELAM N.
	Examiner	Art Unit	
	Junchun Wu	2191	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>08 March 2007</u>.

2a) ☒ This action is **FINAL.**   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>1-22</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>1-22</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All   b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

1.   This office action is in response to the amendment filed on March 8, 2007.

2.   No claims have been amended, added, or cancelled.

3.   Claims 1-22 are pending.

Claim Rejections - 35 USC § 102

1.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2.   Claims 1-7, 9-18, 20-22 are rejected under 35 U.S.C. 102(b) as being anticipated by

Moshir et al. (US Pub. No. 20020100036, hereafter Moshir).

3.   For claims 1 and 12, Moshir teaches a method or system for patching applications,

comprising: deploying a patch package on a first computer running a first type of operating

system, wherein the patch package comprises a patching mechanism and a first set of one or

more new code components [0022 lines 1-4; 0026 lines 1-5], and wherein the patching

mechanism is also executable on a second computer running a second type of operating system

[0047; 0009 lines 1-3]; and executing the patching mechanism on the first computer, wherein

executing the patching mechanism comprises replacing a first set of one or more old code

components in a first application with the first set of one or more new code components [0053 lines 4-7; 0058 lines 4-9].

4.   For claims 2 and 13, Moshir teaches: deploying the patch package on the second computer, wherein the patch package further comprises a second set of one or more new code components [0026]; and executing the patching mechanism on the second computer, wherein executing the patching mechanism comprises replacing a second set one or more old code components in a second application with the second set of one or more new code components [0053 lines 4-7; 0058 lines 4-9], wherein the second application is functionally equivalent to the first application [0010].

5.   For claims 3 and 14, Moshir teaches the method of claim 1 wherein the patching mechanism is written in Java [0050].

6.   For claims 4 and 15, Moshir teaches the patching mechanism is a script written in a cross-platform scripting language [0050; Perl is a cross-platform scripting language].

7.   For claims 5 and 16, Moshir teaches storing the first set of one or more old code components in a separate location before being replaced with the first set of one or more new code components [0065 lines 8-12].

8.   For claims 6 and 17, Moshir teaches restoring the first set of one or more old code

components to the first application [0065 lines 1-8].

9.   For claims 7 and 18, Moshir teaches wherein the patch package further comprises a patch

information file, wherein the patch information file comprises information on the first set of one

or more new code components and information regarding which application the patch package is

applicable to patch [0022 lines 1-4; 0079 lines 1-4; 0084 lines 4-8].

10.   For claims 9 and 20, Moshir teaches storing information on one or more other patch

packages that have been previously applied to the first application in a package information file

[0128 lines 8-16].

11.   For claims 10 and 21, Moshir teaches detecting patch conflicts by comparing the patch

information file to the package information file [0080 lines 1-8].

12.   For claims 10 and 22, Moshir teaches the user interface for the patching mechanism is the

same on different platforms [0140].

Claim Rejections - 35 USC § 103

13.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

14. Claims 8 & 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moshir, and in view of Taylor (US Patent No. 6,161,218).

15. For claims 8 and 19, Moshir teaches the patch information file further comprises information on what bugs the patch package is operable to fix [0092 lines 1-5], but Moshir fails to teach information regarding which other patch packages the patch package is incompatible with. However, Taylor teaches information regarding which other patch packages the patch package is incompatible with [col.7 lines 56-57]. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Moshir by information regarding which other patch packages the patch package is incompatible with as taught by Taylor in order to scan all the patches in target package's information list and to verify that it is ok to install the patch [Taylor col.7 lines 20-22 & lines 39-41].

Response to Arguments

4.   Applicant's arguments filed on March 8, 2007 have been fully considered but they are not

persuasive.

In the remarks, Applicant argues that:

(a)   In regard to claim 1, Moshir fails to teach or suggest a method for patching applications

comprising deploying a patch package on a first computer running a *first type* of operating

system, wherein the patch package comprises a patching mechanism and a first set of one or

more new code components, and *wherein the patching mechanism is also executable on a second*

computer running a second type of operating system, and executing the patching mechanism on

the first computer, wherein executing the patching mechanism comprises replacing a first set of

one or more old code components in a first application with the first set of one or more new code

components.

Examiner's response:

(a)   Examiner disagrees. Moshir discloses a method wherein patch mechanism is executing

on the first computer running a first type of operating system and is also executable on the

second computer running a second type of operating system (see paragraph 103, lines 3-6

"Different target computers within a network may run on different platforms; for instance, some

may be Windows machines, some Unix machines, etc. The same update server 528 can be used

for all the platforms."). Thus, Moshir describes an update agent that installs software patches on

target computer directly from update server (see paragraph 0027, lines 5-7 *"update agent 204*

attempts to install the software patch directly from the update server").

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing

date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Junchun Wu whose telephone number is 571-270-1250. The

examiner can normally be reached on 8:00-17:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Wei Zhen can be reached on 571-272-3708. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.[1]

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[1]

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Junchun Wu
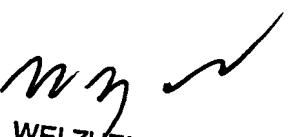
WEI ZHEN
SUPERVISORY PATENT EXAMINER